

Remarks

The forgoing amendment has been made after a careful review of the present application, the references of record, and the Office Action issued March 29, 2004. In the Office Action, the examiner has objected to the title as not being descriptive of the claimed invention and rejected all the claims under 35 USC 102(b) as being anticipated by Browne. In addition, the examiner has rejected claims 1, 3 – 9 under 35 USC 102(b) as being anticipated by Eusebe.

In the forgoing amendment the applicant has amended the title to overcome the examiner's rejection thereof, and has amended claims 1, 4, 9, 10, and 12. Claim 9 has been cancelled. Claim 10 has been amended to incorporate all the elements of the claims upon which it is dependent such that the amendment placed claim 10 in independent form. Claim 1 has been amended to incorporate the elements specifically recited in claims 9 and 10, but omitting elements recited in intervening claims, namely claims 6, 7, and 8. Amended claim 1 includes a trigger and claims 4 and 8 have been amended to relate to "said trigger" rather than introduce the trigger as a new element. Claim 12 has been amended to recite that the means for urging (the spring) can urge the hook toward "one of" the first position and the second position and to further recite a longitudinally moveable rod and a trigger releaseably attached to the rod wherein the hook may be rotated about the longitudinal axis while the trigger is released from the rod.

The applicant asserts that the elements added to claim 12 are the same elements recited in claims 8, 9, and 10. Claim 10 is identical to the original claim 10 except that it is placed in independent form. The elements added to claim 1 were recited in claims 9 and 10, but are grouped to omit the elements in claims 6, 7 and 8. Since the recitation of the elements added to the claims by amendment are not new elements, the examiner is not required to undertake a further search. Accordingly, any further action on the merits of the present application should not be made final.

The applicant hereby traverses the rejection of the claims as amended as being anticipated by Browne under 35 USC 102(b). Browne discloses a device for grasping bottles and cans having an elongate arm 12, a handle 46, and moveable hook 30. An operator can grasp the handle 46 and lock his fingers around a moveable trigger 16 to retract the hook 30 against a stationary jaw member 40. In rejecting claim 10, the examiner has asserted that Browne discloses an attachment means 18 for locking the trigger for movement with the rod 14 and a release means 20 for releasing the attachment means 18 and allowing the hook to rotate about its axis as claimed, but this assertion is not true. The element 18 of Browne is a sleeve which is rigidly retained to the tubular member 12 and permits sliding movement of the rod 14 therethrough. The element 20 is a collar which is rigidly retained to the rod 14 and a coil spring 22 extends around the rod 14 with one end compressed against the collar 20 and the other end against the sleeve 18 for urging the rod away from the handle 46. Browne fails to show an attachment means for locking the trigger for movement

with the rod and a release means for releasing the attachment means from the rod as recited in claim 10. Accordingly, the rejection of claim 10 as being anticipated by Browne is not well founded and must be withdrawn.

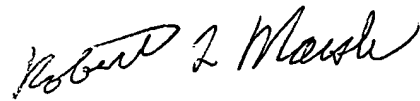
Since the elements for the release means for releaseably attaching the rod to the trigger allowing rotation of the hook while the trigger is released from the rod has been added by amendment to both claims 1 and 12, the applicant further asserts that these claims also define over Browne. The rejection of claims 1 and 12, therefore, as being anticipated by Browne has now been overcome.

All the remaining claims of the application are dependent upon claims 1, and are allowable for the same reason as claim 1.

The applicant also traverses the rejection of the amended claims 1 and 3 through 8 under 35 USC 102(b) as being anticipated by Eusebe. Eusebe discloses a claw with a plurality of fingers 18 that are drawn together by a plurality of cables 28 when a trigger 16 is drawn toward a handle 14. Eusebe is depicted as having eight such fingers symmetrically spaced around a centrally located abutment plate 34. Like Browne, Eusebe does not disclose a release means which can be released to permit the rotation of a hook about a longitudinal axis as required by the amended claims. Accordingly, the rejection of the amended claims as anticipated by Eusebe has been overcome and must now be withdrawn.

In view of the forgoing, the applicant submits that the present application is now in condition for allowance and favorable reconsideration and allowance is requested.

Respectfully Submitted,

A handwritten signature in black ink, reading "Robert L. Marsh". The signature is written in a cursive style with a large, stylized "R" and "M".

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